REMARKS

Claims 1-32 are pending in the present application. In the Office Action mailed November 5, 2003, the Examiner rejected claims 1-3, 5, and 7 under 35 U.S.C. §103(a) as being unpatentable over Foo (USP 6,078,175) in view of Foo (USP 5,251,628) and Wang (USP 6,198,959). The Examiner next rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over the modified Foo and further in view of Pele et al. (USP 5,697,370). Claims 8 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over the modified Foo and further in view of McVeigh et al. (USP 6,171,241). Applicant appreciates the indication of allowability of claim 4.

The Examiner rejected claims 1-3, 5, and 7 under 35 U.S.C. §103(a) as being unpatentable over Foo '175 and Foo '628 and Wang. However, effective November 29, 1999, subject matter which was available as prior art under 35 U.S.C. §103(a) via 35 U.S.C. §102(e), is disqualified as prior art against the claimed invention if the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See 35 U.S.C. §103(c). Since Foo '175 is, at least, available as prior art through 35 U.S.C. §102(c), and in light of the subject matter of Foo '175 and the claimed invention being owned by the same entity or, at least subject to an obligation of assignment to the same entity at the time the invention was made, Foo '175 is disqualified as available prior art. Additionally, Applicant refers the Examiner to the Assignment recorded at Reel/Frame 011507/0733 which evidences assignment of the claimed invention to GE Medical Systems Global Technology Company, LLC. GE Medical Systems Global Technology Company, LLC is a wholly owned subsidiary of General Electric Company, the Assignee of Foo '175.

Given that Foo '175 is disqualified as prior art against claims 1-3, 5, and 7, and further in light of the Examiner's clear admission based on the Examiner's reliance on Foo '175, that Foo '628 and Wang fail to teach or suggest, each and every element of the claimed invention, the rejection of claims 1-3, 5, and 7 under 35 U.S.C. §103(a) cannot be sustained.

Therefore, for at least those reasons set forth above, Applicant believes that which is called for in claim 1, and those claims that depend therefrom, is patentably distinct over the art of record. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-9.

Additionally, Applicant notes that the Examiner, at page 5 of the Office Action, stated that the prior art made of record and not relied upon but considered pertinent to Applicant's disclosure includes Foo, USP 6,526,307. Applicant is unclear how a patent application filed 10 days after the filing date of the present application, can be considered prior art. Applicant is also filing concurrently herewith a Petition for review of the Restriction Requirement imposed in the Office Action mailed July 15, 2003, and made final in the Office Action mailed November 5, 2003.

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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